

# Ext GWT Software Support Agreement

## Version 1.0

THIS DOCUMENT IS A LEGAL AGREEMENT ("Agreement") BETWEEN EXT JS, LLC ("Ext") AND YOU OR THE ORGANIZATION ON WHOSE BEHALF YOU ARE UNDERTAKING THE AGREEMENT DESCRIBED BELOW ("Customer") IN RELATION TO EXT SUPPORT SERVICES. BY UNDERTAKING TO RECEIVE AND/OR PAYING FOR THE SERVICES DESCRIBED IN SECTION 1 BELOW ("Services"), YOU ACCEPT THE FOLLOWING TERMS AND CONDITIONS. IF YOU DO NOT AGREE WITH ANY OF THE TERMS OR CONDITIONS OF THIS AGREEMENT, DO NOT PROCEED WITH RECEIVING THE SERVICES. THIS AGREEMENT DESCRIBES YOUR RIGHTS AND OBLIGATIONS WITH RESPECT TO THE SERVICES.

For a period of one (1) year from the date of purchase or renewal of a support term ("Effective Date"), Ext will supply the Services to Customer with respect to the Software described in Section 1 below, for which Ext has granted a license to Customer pursuant to a software license agreement (the "Software License Agreement") by and between Ext and Customer.

## 1. Included Services

All support plans listed below apply only to the Ext GWT Library ("Software") and do not apply to any other application, library or product developed or sold by Ext. The support, if any, for any other such product will be governed by a separate agreement. All support features listed below are available only for the Maintenance Term plus any extensions or renewals, and such support features will become unavailable immediately upon termination of this Agreement.

All support plans include the following basic features:

- Remote and downloadable access to the most current source code documentation available, including tutorials and examples.
- Read-only web access to the most current source code repository for the Software.
- Unlimited, 24x7 access to the community-driven Ext public support forums.
- Unlimited, 24x7 access to the Ext member-only support forums that are monitored by the Ext development and support teams. The number of people provided with member-only forum access is determined by each plan as listed below.
- Limited email support as detailed in Section 2a.

All other support features are plan-specific as described below:

### A. Silver Support Plan

- 1 support contact provided with member-only support forum access.
- 40 x-credits included that can be spent on any metered support services as detailed in Section 2.
- Maximum incident response time of 72 hours as detailed in Section 3a.

### B. Gold Support Plan

- 1-5 support contacts provided with member-only support forum access.
- 150 x-credits included that can be spent on any metered support services as detailed in Section 2.
- Maximum incident response time of 48 hours as detailed in Section 3a.
- Eligible to receive emergency hot-fix builds on an as-needed basis.
- Telephone support as detailed in section 2b.
- Emergency bug fix escalation available on an as-needed basis.
- Remote trouble-shooting services available as detailed in Section 2c.

### C. Platinum Support Plan

- 1-25 support contacts provided with member-only support forum access.
- 400 x-credits included that can be spent on any metered support services as detailed in Section 2.
- Maximum incident response time of 24 hours as detailed in Section 3a.
- Eligible to receive emergency hot-fix builds on an as-needed basis.
- Telephone support as detailed in section 2b.
- Emergency bug fix escalation available on an as-needed basis.
- Remote trouble-shooting services available as detailed in Section 2c.
- Performance tuning services available as detailed in Section 2c.
- Code review services available as detailed in Section 2c.
- On-site training available as detailed in Section 2c.

#### **D. Diamond Support Plan**

- 1-100 support contacts provided with member-only support forum access.
- 1,000 x-credits included that can be spent on any metered support services as detailed in Section 2.
- Maximum incident response time of 12 hours as detailed in Section 3a.
- Eligible to receive emergency hot-fix builds on an as-needed basis.
- Telephone support as detailed in section 2b.
- Emergency bug fix escalation available on an as-needed basis.
- Remote trouble-shooting services available as detailed in Section 2c.
- Performance tuning services available as detailed in Section 2c.
- Code review services available as detailed in Section 2c.
- On-site training available as detailed in Section 2c.

### **2. Metered Support Services**

All support features listed in this section are valued in x-credits and are only available up to the amount of x-credits available in the Customer's support account at the time of the support incident. Additional x-credits may be purchased and spent on additional support at any time (provided such credits have not expired according to Section 3e). All references to "cost" in this section mean the cost in x-credits based on the x-credit value of the service. All references to "billing" in this section mean the deduction of accumulated x-credits from the support account of the Customer.

#### **A. Email Support**

Email support (addressed to support@extjs.com) is valued per incident, with all emails in a single related thread constituting all of the email support required to resolve that incident. Email support costs 10 x-credits per incident, and can contain 1 or more emails with no limit to the total number. If telephone support is also required to resolve the incident, the cost for the telephone support is added separately and billed in addition to the email support cost under the terms of Section 2b. Support request emails determined to be unrelated to the original email in a support thread shall constitute a new support incident at the sole discretion of Ext support personnel.

#### **B. Telephone Support**

Telephone support is valued in 30 minute increments, with a 30 minute minimum x-credit cost per call (even if the call does not have an actual duration of 30 minutes). Each 30 minutes of telephone support costs 25 x-credits, and the number of separate phone calls is limited only by the total cost in x-credits available in the Customer's support account balance. Telephone support must be scheduled in advance so that Ext and the Customer can establish mutually-agreeable availability, and Ext agrees to complete the scheduling of telephone support within the telephone support response time listed in the appropriate plan in section 1.

#### **C. Expert Services**

Expert services include, but are not limited to, remote trouble-shooting on the Customer's computer systems, performance tuning and code review of the Customer's application code by Ext support staff, and on-site training of Customer staff by Ext training staff. Each 30 minutes of any expert service except on-site training costs 25 x-credits with a 30 minute minimum x-credit cost per request (even if the service does not have an actual duration of 30 minutes). On-site training costs will be quoted on request based on the specifics of the training and travel requirements. Customers are responsible for all travel expenses incurred during the performance of on-site training. All requests for expert services must be scheduled in advance so that Ext and the Customer can establish mutually-agreeable availability.

### **3. Terms of Support**

#### **A. Hours of Availability**

Access to all web-based support features (online documentation and source code, online help forums) are generally available 24 hours per day, 7 days a week, 365 days a year barring unforeseen interruptions in Internet service or planned exceptions by Ext. Notwithstanding anything to the contrary in this Agreement, such availability is not guaranteed by Ext. All metered support services are also generally available 24 x 7 x 365, although the response to each request for metered support may not happen immediately, and will be governed by the response time terms outlined in section 3b. Any planned exceptions to the availability of support services will be communicated on the Ext website as far in advance as possible.

## B. Response Time

The response time listed in each support plan is the elapsed time between the receipt of a support request via email or telephone and the time when Ext begins the support service, including a verbal or written confirmation to the Customer thereof. The actual time required to fully resolve the support request, if such full resolution occurs, may be longer than the maximum response time listed.

## C. Ext's Responsibilities

Ext will use commercially reasonable efforts to assist Customer to resolve problems in its use of the Software as described in Section 1. Ext makes no guarantee that it can, or will, solve any problems with respect to the Software presented by Customer, and further disclaims any warranties above and beyond any limited warranties that may have been expressly made by Ext in the Software License Agreement.

Ext will offer Services for the then-current version of the Software. For not less than twelve (12) months from the release date of the then current version, Ext will also offer Services for the immediately preceding major version of the then-current version. A major version of the Software is defined as the number in the version preceding the first decimal place, e.g., version 1.5 has a major version of 1 (and a minor version of .5). As an example, if 3.1 is the current major version, then any version of the Software numbered 2.x would be supported until version 4.x becomes current, at which time support for all 2.x versions of the Software would no longer be offered.

## D. Customer's Responsibilities

Customer is responsible for all hardware, operating systems, network setup, network maintenance and setup and use of any file access control systems required in the support of the Software. Customer may be required to grant Ext certain limited access rights to Customer's proprietary computer systems in order that Ext may render support Services.

Customer is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Software. If Ext determines, in its sole discretion, in responding to a Customer request for email or telephone Support, that the solution is provided in available media (including, but not limited to, the source code documentation, tutorials and examples, websites or support forums), Ext may direct Customer's personnel to the appropriate media for the solution to the problem. Even if the support request is resolved in so doing, any minimum support charges outlined in section 2 would still apply.

## E. TERM AND TERMINATION

Ext's provision of the Services to Customer will commence on the Effective Date and will continue for an initial term of one (1) year. At the end of the term the Services automatically terminate and any accumulated x-credits that have not been spent will be lost. The Customer may choose to renew Services at any level at any time, subject to Ext's written agreement, but x-credits from previous support terms will not be applied to the new term at the time of renewal and must be used during the term in which they were purchased.

## 4. Disclaimer; Limitation of Liability

Ext shall not be responsible to provide Services to the extent that the issue is caused by (a) Customer's misuse, improper use, mis-configuration, alteration, or damage to the Software; (b) Customer's use of the Software with any hardware or software not supplied or supported by Ext; (c) Customer's failure to install an update to the Software if such update would have resolved the issue; or (d) otherwise uses in a manner not in accordance with the Agreement. Ext shall have no responsibility for loss of or damage to Customer's data, regardless of the cause of any such loss or damage.

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, RELATING TO PRODUCTS OR SERVICES FURNISHED TO CUSTOMER HEREUNDER. EXT SPECIFICALLY DISCLAIMS AND EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THOSE OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR NON-INFRINGEMENT. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, WHETHER MADE BY EXT EMPLOYEES OR OTHERWISE, WHICH IS NOT CONTAINED IN THIS AGREEMENT WILL BE DEEMED TO BE A WARRANTY BY EXT FOR ANY PURPOSE OR GIVE RISE TO ANY LIABILITY OF EXT WHATSOEVER.

IN NO EVENT (i) SHALL EXT'S MAXIMUM LIABILITY FOR ALL DAMAGES EXCEED ACTUAL DIRECT DAMAGES CAUSED BY THE SPECIFIC PRODUCT OR SERVICE COMPLAINED OF, (ii) SHALL EXT'S MAXIMUM LIABILITY FOR ALL DAMAGES EXCEED THE TOTAL AMOUNT OF FEES PAID HEREUNDER, OR (iii) SHALL EXT BE LIABLE

FOR INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES (INCLUDING BUT NOT LIMITED TO LOST BUSINESS PROFITS AND THE LOSS, DAMAGE OR DESTRUCTION OF DATA) EVEN IF EXT HAS BEEN ADVISED OF THE POSSIBILITY OF THE SAME. No limitation as to damages for personal injury is hereby intended. Some states do not allow the exclusion or limitation of incidental or consequential damages under certain circumstances and the above exclusion or limitation may not apply.

## **5. Miscellaneous**

Ext and Customer are independent parties, and nothing in this Agreement shall be construed as making them partners or as creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither party shall make any contracts, warranties or representations or assume or create any other obligations, express or implied, in the other party's name or on its behalf.

All notices given under this Agreement shall be effective upon receipt and shall be in writing and sent to the address of the other party set out at the beginning of this Agreement or to any replacement address of which the other party has been given notice in accordance with this Section. In no event shall either party be liable for any delay or failure to perform under this Agreement which is due to causes beyond the reasonable control of such party.

This document contains the entire agreement between the parties relating to the matters covered by it, superseding all other oral or written representations, understandings, proposals or other communications between the parties. This Agreement may be modified only by a written instrument signed by an authorized representative of each party. Customer may assign this Agreement only with the prior written consent of Ext; Ext may freely assign this Agreement.

In the event that any provision of this Agreement is for any reason void or unenforceable in any respect, such provision shall be without effect to the extent of the voidness or unenforceability without affecting such provision in any other respect and without affecting any other provision.

No action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has been or reasonably should have been discovered, or, in the case of an action for nonpayment, more than two years after the date the last payment was due.

This Agreement shall be governed by the substantive laws (notwithstanding conflicts of laws provisions) of The State of Texas, United States and all parties irrevocably submit to the jurisdiction of the courts of the State of Texas and further agree to commence any litigation which may arise hereunder in the state or federal courts located in the judicial district of Travis County, Texas, US.